MT LEGISLATIVE HISTORY

Chapter 55 1975

Bill (H) 92 S_____ Original bill & hist. ✓C

H. Committee on Local Government		S. Committee on Local Government	
Hearing Date(s) Jan 24	✓C	Hearing Date(s) Mar 04	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Jan 24	✓C	Mar 04	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report_____

House BILL NO. 92

INTRODUCED BY Kimball Seifert Bottlemen W Bach

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 16-1803, R.C.M. 1947, TO PROVIDE A BIDDING PROCEDURE FOR COUNTY PURCHASES EXCEEDING TEN THOUSAND DOLLARS ($10,000); LIMITING A CONTRACT PERIOD TO FIVE (5) YEARS; PROVIDING A SOLICITATION OF BIDS; AND ALLOWING THE DEPARTMENT OF ADMINISTRATION TO SERVE AS PURCHASING AGENT FOR A COUNTY BY MUTUAL CONSENT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-1803, R.C.M. 1947, is amended to read as follows:

"16-1803. Procedure when request for bids is necessary in making contracts for purchases and for construction of buildings exceeding ~~four~~ ten thousand dollars ~~($4,000~~ ($10,000). (1) No contract shall be entered into ~~between~~ by a ~~board of county commissioners~~ county governing body for the purchase of any ~~automobile, truck, or other~~ vehicle, or road machinery, or for any other machinery, apparatus, appliances or equipment, or for any materials or supplies of any kind for which must be paid a sum in excess of ~~four~~ ten thousand dollars ~~($4,000~~ ($10,000), or for the construction of any building, for which must be paid a sum in excess of ~~four~~ ten thousand dollars ~~($4,000~~ ($10,000), without first publishing a notice calling for bids for furnishing the same, which notice must be published at least once a week, for three (3) consecutive weeks before the date fixed therein for receiving bids, in the official newspaper of the county, and every such contract shall be let to the lowest and best responsible bidder; provided that the provisions of this section shall not apply to contracts for public printing entered into in accordance with the provisions of chapter 12 of Title 16 and provided further, that the provisions of this section shall not apply to contracts for purchases, which in the opinion of the ~~board~~ governing body, are made necessary by fires, flood, explosion, storm, earthquake, or other elements, epidemic, riot, insurrection, or for the immediate preservation of order, or of the public health, or for the restoration of a condition of usefulness which has been destroyed by accident, wear, tear, mischief, or for the relief of a stricken community overtaken by calamity.

(2) When the amount to be paid as the purchase price for any ~~automobile, truck, or other~~ vehicle, or road machinery of any kind, or for any other machinery, apparatus, appliance or equipment, or for any materials or supplies of any kind, shall exceed ~~one~~ four thousand dollars ~~($1,000.00~~ ($4,000) the ~~board of county commissioners~~

LC 0551

HB 92

county governing body may provide for the payment of such purchase price in installments extending over a period of not more than ~~three-(3)~~ five (5) years; ~~provided--that--when the--purchase-price-is-extended-over-a-term-of-two-(2)-years or-at-least-forty-(40%)-per-cent-thereof-shall-be--paid--the first--year--and-the-remainder-the-second-year-and-when-such purchase-price-is-extended-over-a-term-of-three-(3)-years-at least-one-third-of-such-purchase-price-to-be-paid-each-year,~~ provided that, at the time of entering into the agreement for such purchase, there shall be an unexpended balance of appropriation in the budget for the then current fiscal year available and sufficient to meet and take care of such portion of the purchase price as is payable during the then current fiscal year, and the budget for each following year, in which any portion of such purchase price is to be paid, shall contain an appropriation for the purpose of paying the same.

(3) Every contract entered into for the rental of machinery, equipment, apparatus, appliances, materials or supplies of any kind, which shall provide for payment of rental, by the county, and that after a certain fixed amount has been paid as rental, the property shall become the property of the county, or any other similar provisions or conditions, shall be deemed and construed to be a contract for sale of such property, and all of the provisions of this

section shall apply thereto and govern and control the same.

(4) On any purchase contract entered into by a county governing body for the purchase of any vehicle, machinery, appliances, apparatus, building or materials and supplies, for which must be paid a sum in excess of four thousand dollars ($4,000) but less than ten thousand dollars ($10,000), bids shall be solicited without advertising, from persons, firms or corporations who have caused to be filed with the governing body of the county a request, in writing, that its name be listed with the governing body for solicitations on the particular items set forth in the request. However, if a person, firm, or corporation whose name is listed fails to respond to any solicitation for bids, such listing may be cancelled. The governing body shall solicit bids of prospective suppliers whose names are listed as provided herein, which solicitation shall contain the same information as is required to be set forth in advertisements. In lieu of soliciting bids, the governing body may purchase any vehicle, machinery, appliances, apparatus, building or materials and supplies, for which must be paid a sum less than ten thousand dollars ($10,000), at public auction. Compliance with the provisions of the section shall be considered as meeting the requirements of section 16-1803 (1).

(5) The state department of administration may

serve as a purchasing agent for the county governing body by mutual consent of both parties."

-End-

HB92

JANUARY 24, 1975

PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE

The meeting was called to order at 8:00 A.M. by Chairman Gerke. The secretary called roll; all members present.

HOUSE BILL 91: Rep. Kendall, chief sponsor, explained that the bill provides for creation of a capital improvement fund, provides monies for the fund, and limitations on fund expenditure. Proponents were Dean Zinnecker, Executive Director of the Montana Association of Counties; and Ludwig G. Browman, Missoula County Commissioner, (Exhibit 1). There were no opponents. During the discussion of the bill, Rep. Gwynn asked for the definition of "acquisition of property". Dean Zinnecker replied that it would be to acquire property for parks, home for aged, etc.

HOUSE BILL 92: Rep. Kendall, chief sponsor, explained that this bill is to amend a previous statute because under present law as it now exists the limitation of purchasing by the county is $4,000,00. The provision of protection remains the same for $10,000.00. Dean Zinnecker, Executive Director of the Montana Association of Counties, proponent, explained that this bill would allow a county to purchase between four thousand dollars ($4,000) and ten thousand dollars ($10,000) by solicitation from suppliers who have filed with the commission a request, in writing, to be contacted for the purpose of bidding on items to be purchased. Ludwig C. Browman, Missoula County Commissioner, proponent, explained how this bill would help his county (Exhibit 2). Lawrence D. Huss, representative of the Montana Contractors Association, proponent, presented amendments to the bill for consideration of the committee. There were no opponents.

HOUSE BILL 140: Rep. Lory, chief sponsor, briefly explained the purpose of the bill. Proponent, Ludwig G. Browman, Missoula County Commissioner, who presented figures of the income and cost of providing the services of process by the sheriff in his county and a comparison of cost of services in Montana with Sonoma County in California (Exhibit 3). Dean Zinnecker, Executive Director of the Montana Association of Counties, and Cap Bryant, representing the Montana Sheriff & Peace Officers Association, spoke briefly in support of the bill. There were no opponents. Questions were asked by the committee as to cost to county and number of cases processed.

HOUSE BILL 143: Rep. Kemmis, chief sponsor, expleined this bill would help solve problems involved in zoning by cities and towns and counties whereby they can adopt an interim ordinance prohibiting any use of the land which may conflict with a zoning proposal. Proponents were Jack Morton, Missoula Attorney; Dan Mizner, Executive Director of the Montana League of Cities and Towns; and Ludwig G. Browman, Missoula County Commissioner. There were no opponents to the bill.

The committee went into executive session to take action on the following bills:

HOUSE BILL 91: It was moved by Rep. Kendall, seconded by Rep. Magone, that House Bill 91 DO PASS. There was some discussion on whether the committee wished to define or change the term "governing board of the county". It was decided not to do anything at this time. Question was called. Motion carried unanimously.

HOUSE BILL 92: It was moved by Rep. Kendall, seconded, that the amendments as presented be adopted and that House Bill 92 be amended as follows:

1. Amend page 1, section 1, line 17.
   Following: "buildings"
   Insert: ", roads and bridges"
2. Amend page 1, section 1, line 25.
   Following: "building,"
   Insert: "roads and bridges,"
3. Amend page 4, section 1, line 12.
   Following: "request"
   Insert: ", and the governing body of the county shall let such contract to the lowest and best responsible bidder"
4. Amend page 4, section 1, line 13.
   Following: "fails"
   Insert: "for a period of one (1) year"

Motion carried unanimously.

It was moved by Rep. Kendall, seconded by Rep. Kummerfeldt, that House Bill 92 DO PASS AS AMENDED. Motion carried unanimously.

HOUSE BILL 140: Rep. Kendall brought to the attention of the committee that many bills have been coming before the committee with an increase in mileage to fifteen cents (15¢) and thought it should be increased to sixteen cents (16¢).

Rep. Kendall moved that House Bill 140 be amended on page 3, section 1, line 7, to delete the words "fifteen cents (15¢)" and insert the words "sixteen cents (16¢)". After a short discussion, Rep. Kendall withdrew the motion.

It was moved by Rep. O'Connell, seconded by Rep. Robbins, that House Bill 140 DO PASS. After considerable discussion, question was called and roll call vote was taken. Voting yes were Rep. Kummerfeldt, Magone, O'Connell, Palmer, Sloan, South, and Gerke. Voting no were Rep. Asher, Gwynn, Marks, Robbins, Sivertsen, Wyrick, Kendall. Rep Bertelsen was excused. Resulting tie vote the motion lost. The committee again discussed the amount of increase in the fees.

It was moved by Rep Marks and seconded for a substitute motion that House Bill 140 DO NOT PASS. The motion carried with Reps. Asher, Gwynn, Marks, Robbins, Sivertsen, South, Wyrick and Kendall voting yes. Rep. Bertelsen was excused.

WITNESS STATEMENT

Name Orin P. Kendall Date 1/22/75

Address Support ? X

Representing HB 723 Oppose ?

Which Bill ? 917 92 Amend ?

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Dean Zimmerman Date 1-24-75

Address Helena Support ? HB 11-92-140

Representing Mt Assn of Counties Oppose ?

Which Bill ? Amend ?

Comments:

Please leave prepared statement with the committee secretary.

EXHIBIT 2

NAME _____ Bill No. _____

ADDRESS _____ Date _____

WHOM DO YOU REPRESENT? _____

SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The committee might want to take notice of the fact that many of the bills before it today contain the term "governing board of the county":
H.B. 61, line 1 and 20
H.B. 91, line 9
H.B. 92, line 19 on page 1 and line 12 on page 2
H.B. 137 line 11
H.B. 138 line 14 on page 1 and lines 3 and 24 on page 2

This may be an important question since H.B. 91 amends "board of county commissioners" to read "county governing board", which may imply that the "county governing board" is a body other than the board of county commissioners. This is significant because "governing board of the county" has been defined as the board of county commissioners in 55 of Montana's 56 counties.

The entire definition may need to be resolved because no where in the Revised Codes of Montana does one find a definition of "governing board of the county".

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 4, 1975

The twenty-seventh meeting of the Local Government Committee was called to order by Chairman Romney on the above date in Room 410 of the Capitol Building at 11:00 A.M.

ROLL CALL: Five Senators were present. Senators Cetrone, McCallum and Story were excused.

The following witnesses were present to testify at the meeting:

Representative Babcock, sponsor of HB 578
Dean Zinnecker, Montana Association of Counties
Larry Huss, Montana Contractors' Association
Robert VanDeVere, citizen
Representative Kendall, sponsor of HB's 91 and 92

CONSIDERATION OF HOUSE BILL 578: Representative Babcock gave a brief synopsis of her bill explaining that its main purpose was to give the County Commissioners more leeway in purchasing equipment and materials for the county; and that in times of emergency, it would possibly save the county money. Rep. Babcock read a letter from the Lewis and Clark(Ex. A) County Commissioners supporting the bill. Dean Zinnecker supported HB 578 and stated that HB 92 was very similar except that it had one additional procedure to be required of the County Commissioners that HB 578 did not have.

Larry Huss, from the Montana Contractors' Association, opposed the bill stating HB 92 was a far superior bill and he thought HB 578 should be killed. Robert VanDeVere opposed both bills (HB 578 and HB 92) testifying he thought the County Commissioners would have a tendency to be dishonest with the loosening of controls on them.

There were questions from the Committee.

CONSIDERATION OF HOUSE BILL 92: Representative Kendall spoke on his bill and at the same time replied to Mr. VanDeVere's remarks about dishonesty in commissioners. He stated the commissioners could be just as dishonest with their current allotment of $4,000 as they could be with the proposed allotment of $10,000. Dean Zinnecker supported HB 92 and stated he thought this legislation would be a step to correct the uncompromising burden placed on the commissioners by the $4,000 limitation.

Larry Huss rose in support of the bill also. Mr. VanDeVere backtracked and changed his testimony to support this bill.

There were questions from the Committee.

CONSIDERATION OF HOUSE BILL 91: Representative Kendall asked Mr. Dean Zinnecker to explain the bill. Dean Zinnecker pointed out that this bill would not allow an additional mill levy to be imposed on taxpayers; rather the county would be able to set aside 10 % of money derived from existing levy for the purpose of capital improvements. They would not be allowed to set aside money for more than 10 years in advance.

There were no opponents.

There were questions from the Committee.

DISPOSITION OF BILLS:

House Bill 91: Senator Thiessen made a motion that House Bill 91 BE CONCURRED IN. Seconded by Senator Watt. Motion carried.

House Bill 578: Senator Watt made a motion that HB 578 BE NOT CONCURRED IN. Seconded by Senator Thiessen. Motion carried.

House Bill 92: Senator Thiessen made a motion that HB 92 BE CONCURRED IN. Seconded by Senator Goodover. Motion carried.

ADJOURN: There being no further business the meeting was adjourned at 11:53 A.M.

Miles Romney

MILES ROMNEY, Chairman

Mi.:dg

Exhibi A

NAME: [illegible] DATE: [illegible]

ADDRESS: [illegible]

PHONE: [illegible]

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: 91-92-108

DO YOU: SUPPORT? ~~→~~ _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Larry Hass DATE: 3/4/91

ADDRESS: 107 1/2 Ave

PHONE: 442-8077

REPRESENTING WHOM? Montana Outfitters Assoc.

APPEARING ON WHICH PROPOSAL: HB 92 & 578

DO YOU: SUPPORT? C AMEND? OPPOSE? S

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: [illegible] DATE: 2-4-15

ADDRESS: Helena

PHONE: 442-3209

REPRESENTING WHOM? Mt. Ass. of Counties

APPEARING ON WHICH PROPOSAL: HB 91 92 370

DO YOU: SUPPORT? I AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: _____ DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HOUSE BILL NO. 92

INTRODUCED BY KENDALL, SEIFERT, BERTELSEN, W. BAETH

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 16-1803, R.C.M. 1947, TO PROVIDE A BIDDING PROCEDURE FOR COUNTY PURCHASES EXCEEDING TEN THOUSAND DOLLARS ($10,000); LIMITING A CONTRACT PERIOD TO FIVE (5) YEARS; PROVIDING A SOLICITATION OF BIDS; AND ALLOWING THE DEPARTMENT OF ADMINISTRATION TO SERVE AS PURCHASING AGENT FOR A COUNTY BY MUTUAL CONSENT."

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Section 1. Section 16-1803, R.C.M. 1947, is amended to read as follows:

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(2) When the amount to be paid as the purchase price for any ~~automobile, truck, or other~~ vehicle, or road machinery of any kind, or for any other machinery, apparatus, appliance or equipment, or for any materials or supplies of any kind, shall exceed ~~one~~ four thousand dollars

REFERENCE BILL

~~($1,000.00)~~ ($4,000) the ~~board of county commissioners~~ county governing body may provide for the payment of such purchase price in installments extending over a period of not more than ~~three (3)~~ five (5) years; ~~provided that when the purchase price is extended over a term of two (2) years or at least forty (40%) per cent thereof shall be paid the first year and the remainder the second year and when such purchase price is extended over a term of three (3) years at least one third of such purchase price to be paid each year~~ provided that, at the time of entering into the agreement for such purchase, there shall be an unexpended balance of appropriation in the budget for the then current fiscal year available and sufficient to meet and take care of such portion of the purchase price as is payable during the then current fiscal year, and the budget for each following year, in which any portion of such purchase price is to be paid, shall contain an appropriation for the purpose of paying the same.

(3) Every contract entered into for the rental of machinery, equipment, apparatus, appliances, materials or supplies of any kind, which shall provide for payment of rental, by the county, and that after a certain fixed amount has been paid as rental, the property shall become the property of the county, or any other similar provisions or conditions, shall be deemed and construed to be a contract

for sale of such property, and all of the provisions of this section shall apply thereto and govern and control the same.

(4) On any purchase contract entered into by a county governing body for the purchase of any vehicle, machinery, appliances, apparatus, building or materials and supplies, for which must be paid a sum in excess of four thousand dollars ($4,000) but less than ten thousand dollars ($10,000), bids shall be solicited without advertising, from persons, firms or corporations who have caused to be filed with the governing body of the county a request, in writing, that its name be listed with the governing body for solicitations on the particular items set forth in the request, AND THE GOVERNING BODY OF THE COUNTY SHALL LET SUCH CONTRACT TO THE LOWEST AND BEST RESPONSIBLE BIDDER. However, if a person, firm, or corporation whose name is listed fails FOR A PERIOD OF ONE (1) YEAR to respond to any solicitation for bids, such listing may be cancelled. The governing body shall solicit bids of prospective suppliers whose names are listed as provided herein, which solicitation shall contain the same information as is required to be set forth in advertisements. In lieu of soliciting bids, the governing body may purchase any vehicle, machinery, appliances, apparatus, building or materials and supplies, for which must be paid a sum less than ten thousand dollars ($10,000), at public auction.

Compliance with the provisions of the section shall be considered as meeting the requirements of section 16-1803 (1).

(5) The state department of administration may serve as a purchasing agent for the county governing body by mutual consent of both parties."

-End-